

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

GILBERTO VILLANUEVA, JR.

PETITIONER

V.

CIVIL ACTION NO. 3:19-CV-455-DCB-JCG

WARDEN DAVID PAUL

RESPONDENT

Order Adopting Report and Recommendation

This matter is before the Court on Magistrate Judge John C. Gargiulo's Report and Recommendation [ECF No. 27], to which no objections have been filed by the Petitioner. Having carefully reviewed the same, the Court finds that Magistrate Judge Gargiulo's Report and Recommendation is well taken and shall be adopted as the findings and conclusions of this Court. At the time the petitioner filed, the petitioner was housed at the Federal Correctional Complex in Yazoo County, Mississippi. As of October 18, 2020, the petitioner was transferred to the Federal Correctional Institution in Marianna, Florida, where he currently resides. Judge Gargiulo recommends that the Petitioner's Petition for Writ of Habeas Corpus [ECF No. 1] should be denied and that this action be dismissed with prejudice regarding the jurisdictional issue of this court and DISMISSED without prejudice regarding the merits of the case. In cases regarding petitions for Writs of Habeas Corpus, jurisdiction is not based on the location

in which a petitioner is incarcerated. Jurisdiction is based on the court which sentenced the petitioner. Pack v. Yusuff, 218 F.3d 448, 451 (5th Cir. 2000).

Accordingly,

IT IS HEREBY ORDERED AND ADJUDGED that Magistrate Judge John C. Gargiulo's Report and Recommendation is ADOPTED as the findings and conclusions of this Court. This action is hereby DISMISSED with prejudice regarding the jurisdictional issue of this court and DISMISSED without prejudice regarding the merits of the case.

A Final Judgment shall be entered of even date herewith pursuant to Rule 58 of the Federal Rules of Civil Procedure.

SO ORDERED AND ADJUDGED this the 15th day of July, 2021.

/s/ David Bramlette

UNITED STATES DISTRICT COURT